

Subpart H—Making HazCom Information Available

§ 47.71 Access to HazCom materials.

Upon request, the operator must provide access to all HazCom materials required by this part to miners and designated representatives, except as provided in § 47.81 through § 47.87 (provisions for trade secrets).

§ 47.72 Cost for copies.

(a) The operator must provide the first copy and each revision of the HazCom material without cost.

(b) Fees for a subsequent copy of the HazCom material must be non-discriminatory and reasonable.

§ 47.73 Providing labels and MSDSs to customers.

For a hazardous chemical produced at the mine, the operator must provide customers, upon request, with the chemical's label or a copy of the label information, and the chemical's MSDS.

Subpart I—Trade Secret Hazardous Chemical

§ 47.81 Provisions for withholding trade secrets.

(a) Operators may withhold the identity of a trade secret chemical, including the name and other specific identification, from the written list of hazardous chemicals, the label, and the MSDS, provided that the operator—

(1) Can support the claim that the chemical's identity is a trade secret,

(2) Identifies the chemical in a way that it can be referred to without disclosing the secret,

(3) Indicates in the MSDS that the chemical's identity is withheld as a trade secret, and

(4) Discloses in the MSDS information on the properties and effects of the hazardous chemical.

(b) The operator must make the chemical's identity available to miners, designated representatives, and health professionals in accordance with the provisions of this subpart.

(c) This subpart does not require the operator to disclose process or percentage of mixture information, which is a trade secret, under any circumstances.

§ 47.82 Disclosure of information to MSHA.

(a) Even if the operator has a trade secret claim, the operator must disclose to MSHA, upon request, any information which this subpart requires the operator to make available.

(b) The operator must make a trade secret claim, no later than at the time the information is provided to MSHA, so that MSHA can determine the trade secret status and implement the necessary protection.

§ 47.83 Disclosure in a medical emergency.

(a) Upon request and regardless of the existence of a written statement of need or a confidentiality agreement, the operator must immediately disclose the identity of a trade secret chemical to the treating health professional when that person determines that—

(1) A medical emergency exists, and

(2) The identity of the hazardous chemical is necessary for emergency or first-aid treatment.

(b) The operator may require a written statement of need and confidentiality agreement in accordance with the provisions of § 47.84 and § 47.85 as soon as circumstances permit.

§ 47.84 Non-emergency disclosure.

Upon request, the operator must disclose the identity of a trade secret chemical in a non-emergency situation to an exposed miner, the miner's designated representative, or a health professional providing services to the miner, if the following conditions are met.

(a) The request is in writing.

(b) The request describes in reasonable detail an occupational health need for the information, as follows:

(1) To assess the chemical hazards to which the miner will be exposed.

(2) To conduct or assess health sampling to determine the miner's exposure levels.

(3) To conduct reassignment or periodic medical surveillance of the exposed miner.

(4) To provide medical treatment to the exposed miner.